IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 408 OF 2006

Communidade of Pilerne
through its Attorney
Shri Cosmas Fernandes,
major of age, r/o H.No.391/1,
Pilerne, Marra, Bardez,
Goa - 403 114. ... Petitioner

versus

1. State of Goa through its
   Chief Secretary, having
   office at Secretariat,
   Porvorim, Goa.

2. The Deputy Collector(LA),
   having office at Collectorate,
   North Goa, Panaji, Goa.

3. Goa Housing Board through
   its Managing Director, having
   office at Alto Porvorim, Goa. ... Respondents

Mr. M. S. Sonak, Advocate for the Petitioner.

Mr. S. S. Kantak, Advocate General with Ms. R. Chodankar,
Additional Government Advocate for the State.

CORAM : J. N. PATEL &
N. A. BRITTO, JJ.

DATE : 28TH NOVEMBER, 2006.

ORAL ORDER

Heard.

2. The Petition can be disposed of at the stage of admission itself.

3. The Petitioner has challenged the acquisition proceedings which were initiated in respect of land admeasuring 1,40,700 sq. meters surveyed under No.31/1(part) at Pilerne, Bardez, Goa belonging to the Petitioner for the purpose of implementation of housing scheme of the Board at Pilerne in Suvey No.31/1 in Bardez Taluka. The Petitioner has challenged the proceedings on various grounds particularly for failure on the part of the Land Acquisition Officer to comply with the mandatory provisions of the Land Acquisition Act.

4. It has been brought to the notice of this Court that even if it is accepted that the Notification under Section 6 was published within the stipulated period but then the authorities have failed to declare the award within a period of two years from the date of publication of declaration which is held to be

substantive or mandatory less the acquisition itself falls. The State in the affidavit filed on behalf of Respondent No.2 has not disputed the fact that the award was not passed within a period of two years from the date of publication of declaration which was under Notification No.22/140/97-RD dated 16-11-1999 published in Official Gazette dated 3-2-2000 and the award was thereafter declared on 30-4-2002.

5. In view of the decision rendered by the Supreme Court in **Satendra Prasad Jain and others** v. **State of U.P.** (AIR 1993 SC 2517) and **Abdul Majeed Sahib and another** v. **District Collector and others**((1997) 1 SCC 297 wherein it is clearly held that it is obligatory for the Land Acquisition Officer to make an award within two years from the date of publication of last of the steps under Section 6(2) publishing the declaration under Section 6. As a consequence, the Land Acquisition Officer is statutorily under an obligation, at the pain of invalidation of the acquisition itself to make the award within two years unless it falls within one of the provisos or the Explanation added thereto. No such exemption is sought by relying on any of the provisos to Section 11 and therefore the petition is allowed with

costs in terms of prayer clauses (a) and (b) which reads as under:-

> "(a) Issue a declaration that the impugned Award dated 30.04.2002 is a nullity and that the entire acquisition proceedings, which commenced with issuance of the Notification dated 27.04.1998 stand lapsed;
>
> (b) Grant an appropriate writ, order or direction calling for the records and proceedings from the Respondents and upon perusing the same, to quash and set aside the impugned Award dated 30.04.2002 as also the entire land acquisition proceedings, which commenced with the issuance of the Notification dated 27.04.1998".

J. N. PATEL, J.

N. A. BRITTO, J.

RD